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The Pro Forma Decision on the Eight Hour Law.

Some of the most firmly established principles of American legal procedure have been conspicuously violated in the disposition of the litigation instituted in the West to test the constitutionality of the Adamson eight hour labor law.

In the first place, the judgment is only a pro forma decision. It is not the outcome of careful and deliberate judicial consideration. In the case decided in the United States District Court by Judge Hook there is no pretense that the decision represents the result of any serious thought upon the momentous question involved. It is avowedly a hasty judgment rendered forthwith upon the presentation of the case, because the Department of Justice desired to get it before the Supreme Court at Washington as speedily as possible.

The motive of the Attorney-General is natural, but it has carried him too far when he insists upon a decision in the court of first instance which is only a decision in form. It has heretofore been an invariable rule in appellate courts that they will review only actual determinations of the courts below, not fictitious judgments rendered solely to expedite appeals. This rule is based upon substantial grounds. The parties to a litigation are entitled to the carefully considered judgment of the trial court, not merely to a guess, as in the present case, whether an act of Congress is constitutional or not. Furthermore, the appellate tribunal in all matters of grave import is entitled to the aid and advice which may be furnished by an opinion from the court below. Here, however, we have the unprecedented spectacle of a Federal Judge condemning an act of Congress as unconstitutional without telling the reason why.

In the second place, if a statute is susceptible of any reasonable construction which will uphold its validity it is the duty of the courts thus to construe it. Admitting that it is important that a review of the eight hour law by the Supreme Court should be expedited, and therefore that a speedy decision in the District Court was desirable, the District Judge, if he had to jump at a conclusion, should have acted upon the presumption in favor of the constitutionality of the law and pronounced it valid. The methods adopted in getting the courts to pass upon the Adamson law are almost as bad as the methods used to compel Congress to pass it. We shall be surprised if they receive the approval of the Supreme Court of the United States.

Fighting the Bogey, Night Air.

The Department of Health has begun a seasonal campaign for more fresh air in sleeping rooms. Of course there is a large part of the population already convinced of the good effects of ventilation, but the department hopes to convert those who still nurse a prejudice against that "night air" which was a goblin to our ancestors. It is trying to show the cave dweller that air in allopathic doses is not only harmless to most sleepers but necessary. The current Bulletin of the department admits that much educational work on this line remains to be done.

There still lingers the idea that open windows, sleeping porches and the like are desirable and indispensable for the tuberculous, but that they are unnecessary for the well. This, of course, is absurd. There is no doubt whatever that the more general adoption of fresh air life, more open windows, more outdoor walking, more apartments having sleeping porches, would markedly improve the health of the community and do much to prolong the life of its members.

From only a few are the joys of wind swept summer to be withheld. These are persons who suffer from asthma and kindred ills, and they are advised to ask their doctors how far down they may let the window. All others should put an extra blanket on the bed and go in for the joy of sleeping in cold, fresh air. The health sharps do not mention nightcaps, the non-potable kind; but we suppose they may be worn by those who have thin hair. Tuck the ends of the lace or cretonne curtains behind the chignon and adjust the window shade so that it may not rattle. Blow, blow, thou winter wind, thou'rt not half so unkind as that stuffy feeling on getting up.

Nor is the stuffy feeling all that may be prevented. The Health De-

partment offers a chart showing that the death rate from pneumonia, bronchitis, grip and colds is greatest by far in the months of closed windows. The department does not pretend that the incidence of respiratory disease in winter can be reduced to that of summer, but it expresses confidence that the more general use of fresh air will bring good results.

The Health Department has set Monday, December 4, for Open Window Day, but by special dispensation all renders of THE SUN who have never become intimately acquainted with night air may begin its use this very evening.

The Economic Aspect of Military Training.

The prophetic wisdom of Washington's apothegm has been so clearly demonstrated in our history and in the history of England that the difference of opinion on this subject is remarkable. England was warned by its great soldier long before the present war to prepare an army that would be as efficient on land as its navy has proved on the sea. General Roberts's advice was not heeded. The fatal result is obvious to-day. England was unprepared for war on land because her statesmen lost sight of the fact that her sea barriers are insufficient. Two precious years were spent in preparing an army in the present war.

Like a conflagration, war may be prevented or checked in its incipency by adequate preparation. The present European war offers an illustration of this. The lack of preparation has cost the Allies millions of men and of treasure and great loss of territory, despite their superiority in population, wealth and resources.

A sad example of unpreparedness was presented by us in the Spanish war. Lives were sacrificed by reason of the lack of organization in the medical, commissary and quartermaster's departments. Our volunteers succumbed to disease before they were called upon to face the enemy. We have again to-day a flagrant example of slavish imitation of England's fatal policy. The bulk of the United States army, supported by the hastily assembled militia, is endeavoring to protect our borders, not against an organized army but against a band of desperadoes whom the so-called Constitutional army of Mexico is impotent to overcome. There is no doubt that the Mexican imbroglio would have been averted if this country had had an army of half a million men at its disposal. A few well garrisoned posts within reach of the border would have kept the Mexican guerrillas at bay as successfully as our Western frontiers were protected against their prototypes. There would have been no need of taking men from their civilian occupations and their families for this purpose.

Since other cogent reasons for military defense do not weigh with the so-called pacifists the economic aspect of this question may be of value. The loss of life and treasure caused by our unpreparedness in the past and likewise in our present Mexican difficulties presents a clear economic indictment of a fatal policy.

Let us take counsel of events within the memory of many now living. When General Leonard Wood was Chief of Staff of the United States army, he warned us that no time must be lost in placing this nation in an adequate defensive condition. He began with summer camps for students, from which the Plattsburg idea was evolved. More than 350 business men and professional men have already qualified before an army board for commissions in the Officers Reserve Corps. This practical achievement entitles General Wood to recognition as a safe, sound and conservative adviser on military training for defense.

We are led to these comments by the reported antagonism against the careful and well considered scheme of the governors of the College of the City of New York providing for extra-mural instruction, courses of lectures, supplementing practical work at the summer training camps. It is to be hoped that the trustees of the institution will not permit their sound judgment to be overcome by uninformed and unreasonable antagonism.

The Causes of Death.

An interesting fact in the summary of mortality statistics for 1915 issued to-day by the Census Bureau is that in the area where reports are registered and compilation can be made nearly one-third of the deaths were due to three causes, heart diseases, tuberculosis and pneumonia.

Those wise counselors who insist that we are living too fast may find support in this summary. Heart diseases, which are considered in many cases a manifestation of the severity of the struggle to get rich, to keep up appearances, to burn the candle at both ends, are placed first as a cause of death. Last year the deaths from these diseases numbered 156,2 to each 100,000 of population. This rate shows a marked increase as compared with 1900, when it was only 123.1 to the same number of persons.

It is cheering to learn that the progress made in the prevention of tuberculosis has brought good results. The recognition of the contagious character of the disease, the consequent isolation and the employment of the open air treatment have all had a part in the decline of the death rate. This has been twenty-five per cent. in the last ten years. Pneumonia, too, has shown a marked decline in the same period. The rate, however, has fluctuated from year to year, being much higher in 1915 than 1914, which was the lowest on record.

The only remaining death rate higher than one hundred in 100,000 population was that of Bright's dis-

ease and acute nephritis. The mortality from these causes has been increasing since 1900. The same is true of cancer, the sixth in order of deadliness. In this century only two years have shown a decline in this disease as compared with the years immediately preceding.

Epidemics have not for several years exacted a heavy toll upon our population. One of the gratifying things in the report is the marked decline of the mortality rate from typhoid fever. The decline, in fact, is greater than that shown by any other important cause of death. Improved methods of sanitation, better systems of water supply and sewerage, and campaigns against flies are factors which are cited as proving valuable in reducing almost two-thirds the death rate of this disease in the fifteen years of this century.

The safety first campaign has borne good fruit. There has been a considerable reduction in fatalities due to railway, street car, mine and machinery accidents. The number of deaths from automobile accidents has increased, but the increase has not been so rapid as in the number of machines in use.

The census shows the astonishing fact that last year firearms caused nearly as many deaths as railroads and street cars combined and more than twice as many as automobiles. Out of 11,216 cases of suicide reported, firearms were used in more than one-third. Firearms caused almost 5,000 other deaths.

It is evident from this report that there has been a lowering in the death rate of the country. This, no doubt, is due to the doctors, an increasing interest in sanitation and health and better methods of conserving lives in dangerous occupations. But if the United States is to make a really satisfactory showing in mortality statistics it apparently should limit the use of firearms, and heeding the advice of the sages, stop living too fast.

Officers and Gentlemen.

We congratulate the directors of West Point and Annapolis on the behavior of the students of those institutions on their latest visit to New York. We felicitate the cadets and the midshipmen on their conduct; we wish the circumstances of their education would permit them more frequently to visit us.

In the demeanor of midshipmen and cadets the admirable effects produced by the discipline under which they live are apparent. They have lost nothing of youth or enthusiasm; they have gained much of poise and self-government. The processes employed in making officers and gentlemen are justified by the results attained. The exhibit of competent, self-reliant, courteous and considerate American gentlemen which was disclosed on Saturday proves it.

It is unfortunate that so few Americans, comparatively, have opportunity to see the boys undergoing technical training for the army and navy. Their persons and bearing are the best argument we know of in favor of military training. They comport themselves in a manner highly creditable to their good dispositions, their sense of dignity, the traditions so greatly influencing them, and their appearance and behavior must stimulate the interest and quicken the pride of every citizen of the United States in the services they so worthily represent.

Commercialized Eccentricity.

Bohemia, we guess, need have no tremors of fear that the closing of a garret in its duchy will act as a writ of eviction on its people.

He had made a gainful occupation of "bohemianism" who locked the garret door and betook himself to other commercial ways, docking his mighty name to be more conventionally a

"Pushing young particle."

What's the next article.

Counter adorning young man."

Rather should bohemia rejoice that the garret with its futuristic poets and its cubist painters is to be let, to some honest George Warrington, mayhap, or again to become the storeroom for Washington Square lawn mowers, never more to forward eccentricity commercialized.

We believe many bohemiens, genuinely half marked, have made their homes in a corner of old Greenwich Village. There seems to be evidence that some helpful and interesting work is being done there; the writing of plays and their production, some verse making worth while, illustrations held in design—better conception to follow deeper thought—and art classes for color workers which may start during voyages over uncharted seas of manner. All of these seeking freedom in expression, all who will not try to dance in chains, to whom convention social or artistic is irksome, surely have the amiable wishes of reasonable lookers on. But to our friends in that corner of old Greenwich we make bold to say: Shut the garret, the studio, the restaurant; dispossess the "bohemiens" who discovers that he is one.

Sears on the Stadium Turf.

Great is football, but there is no logic in it. A sport that has no fun for the loser is not the best sport. And what can be said of an amateur sport as commercial as the East River waterfront? Even with the players marked for identification, like live stock at a county fair, experts cannot agree who made the run and who the tackle, while the inveterate follower of the game only knows his side won or lost, and cannot lucidly explain—in the presence of another looker on, at least—how it was done. Not even in the political arena do

men rise so fast and so far in popular favor, or descend to such depths of ignominy in failure, however excusable. Do the wounds of football heal quickly? There are as many All America teams, or All Eastern, All Southern, All Western as there are authorities, without authority, to name them. As to champion eleven, you may select your own. Football must be a fake, a colossal fake. That would explain its popularity.

Popular it is, indeed, when 80,000 persons sit on stone all through a cold November afternoon, singing or shivering, praying or cheering for Yale or Harvard. But the cheers are not for offensive and defensive formations because of their ingenuity or technical excellence; not for a forward pass because it is well executed, but because it gains yards for "our side." There is matter in football for philosophers; but the philosopher who can handle it must be a combination of Kant, Carlyle, Mr. Dooley and, let us say, Big Bill Edwards.

On Thursday the football season ends, and thanks may be given for abatement of the fever. Coming with the political heats of a Presidential year, it has been glorious, but a strain. It has been shown that the "loose ball game" can be sufficiently thrilling; that Yale, Harvard and Princeton have no monopoly of skill and strength, and that the "Haughton system" is not supernatural. Yale is happy, Harvard will survive, hope never dies in Princeton breasts, and, win or lose, the Cadets and the Midshipmen behave as true fighting men should. For hard, clean, clever play, for all that makes good sportsmanship on the gridiron, the Brown eleven of 1916 wins praise and admiration.

Indianapolis has discovered within her bounds a young woman born in Germany who did not hear of the world war until Saturday. A good many persons will envy her; most of us have heard far more of it than is to our liking.

Chemistry will abolish old age.—Newspaper headline.

Fashion has abolished it already.

The Western householder who paid his maid servant \$2 a month and kept all reading matter from her may have felt that he was treating her as one of the family.

In spite of the commendable effort of the Long Island Railroad in its safety first campaign, automobile drivers continue to act like crazy men at grade crossings. In this month at one such crossing four cars were wrecked, and a human life was lost. In front of approaching trains, and in front of cars going over safely, the fourth was wrecked and of its three occupants one was killed and the others injured. If the drivers of these cars had been engaged in the pursuit of a band of train robbers they would have had to summon up their courage even in the heat of the chase to take the risk. But as there was nothing to gain and everything to lose by recklessness they dashed gayly and heedlessly into the path of peril. No reasoning, it seems, in the case of such drivers. The instinct of such speed is the best that can be done to exercise a stricter control over the granting of licenses to drive.

Undoubtedly life can be sustained in Chicago on thirty-nine cents a day, but is it worth the price?

Broadway has had a tough time lately. Property owners have suffered large losses, merchants have been handicapped in their enterprises and the public has been seriously inconvenienced. The merchants are now trying to have the street restored to its normal condition and in their efforts they deserve the aid of every agency of the city government and the help of all citizens. The town as a whole is interested vitally in a prosperous Broadway.

So far no Democrat has proposed an embargo on cotton for the relief of the mill owners and operators of this country.

FAMOUS UNDERSTANDINGS.

Was Mr. Bailey, of Barnum & Bailey, a Callahan or a Sullivan?

To the Editor of THE SUN.—Sir: Coincident with my declaration to reveal the address of Frankie Bailey, I was rearranging a lot of old theatrical photographs and press clippings and I ran across a print of Pauline Markham, made several years ago. Why this picture of Pauline in tight shoes had suggested Frankie Bailey and brought to mind the letter in THE SUN I do not know; but, tell me, what has become of Pauline Markham?

Perhaps she's in the "movies"? As to Frankie Bailey, I believe she was a half sister of Bailey of Barnum & Bailey, who died two or three years ago. To keep up the old and familiar title the late Mr. Bailey assumed that name. What was his original name? Was it not Callahan or Sullivan?

An Old JOHNNIE BOY.

New York, November 25.

A Call to Duryea's Zouaves.

To the Editor of THE SUN.—Sir: If there are members of the 14th New York Volunteers (Duryea's Zouaves) alive I would like to hear from them. I enlisted in Company C in Utica and during the war was captured and spent a long time in Andersonville. I have been to several reunions, but never could find any of the men from my old regiment. I would also like to know where I could find a uniform or a colored plate of name. My photograph, taken at the time of enlisting, does not show very clearly now.

E. S. DUNNING.

PHILADELPHIA, Pa., November 25.

Pepps.

He often smiles and seldom weeps And always entertains us—Pepps.

We like him for his little quips, That ancient gossip, Samuel Pepps.

Although sometimes he oversteeps, Perhaps the proper bounds of Pepps.

Tarnished a bit they say his "rep" is, But all his writing full of Pepps.

By lamplight, warm and growing sleepy, 's The time to revel in your Pepps.

It does not matter how you score him; Smith, Majors, Chumley—I am for Pepps.

—MAYNARD MANN.

THE FOURTEENTH AMENDMENT.

If It Were Not Ignored Mr. Hughes Would Have Been Successful.

To the Editor of THE SUN.—Sir: Those who ask for direct election of Presidents seem to overlook the fact that the change cannot consistently be made without the creation of a uniform standard of suffrage requirements. In the States of the South, where democracy with its "spoils" and "patronage" democracy with a small "d," the proportion of the number of voters to total population is 1 to 15. In South Carolina it is 1 to 29 and in Mississippi 1 to 30. In Indiana it is 1 to 4. In the States where women vote the proportion of voters to population is even larger. The Southern politicians who are too proud to let the freed man and the poor white vote are, however, not too scrupulous to insist upon votes in Congress and electors based upon this suppressed vote.

There is nothing in the present election laws or practices of the old slave States to prevent a Democratic plurality of millions being piled up. Mr. Wilson's so-called popular plurality was all accumulated in these States, where free elections do not exist, with 200,000 additional for good measure. A measure to enforce a free ballot and a fair count in the South would be called a "force bill" by New York World and other Democratic defenders of wholesale disfranchisement.

The violation of genuine democracy in the States where Mr. Wilson's associates in Democratic leadership are running things is not confined to men of the same color as some of the peons in behalf of whose right to run the Mexican and Chinese elections were being fought. It is supposed to be agonizing night and day. It includes the poor whites by the hundreds of thousands. In Mr. Wilson's own native State of Virginia, upon whose fields he can look from the White House while writing his soulful periods about the Virginia Bill of Rights, a ruling oligarchy of 150,000 men has excluded 150,000 poor whites and 150,000 blacks from the ballot box, partly by an alleged "literacy" test accompanied by an inadequate common school system, partly by a cumulative poll tax system, and partly by downright trickery and fraud, specific instances of which may be detailed by the colored press of the South.

In view of the Administration's attitude toward democracy in that part of the country where its own henchmen are in complete control, its profession of interest in the rule of the people is rank humbug.

The popular and electoral plurality of Mr. Wilson, the Democratic majority in the Senate and most of the Democratic vote in the House is based upon embroiled power secured through open violation of the Constitution, which provides for reduction of representation where the States are reduced in area, as was done in the case of the New Free States curiously like the old slavery. If the provisions of the Constitution President Wilson is sworn to uphold were enforced he would not have been reelected. The Fourteenth Amendment says in part:

When the right to vote at any election for the choice of electors for President and Vice President, for Members of Congress, for Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any male citizen of the United States, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for the participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The Republican party has this year lost the Presidency through its cowardly failure when in power to meet the issue of real democracy raised in the South by wholesale disfranchisement of the very voters upon whom the representation of these States in Congress, and among the electors is based. If any State that is not a free State, or that because of lawlessness in other States will not cast its proper proportion of electors' votes under the Constitution might not invalidate the alleged reelection of President Wilson by an action at law. Compliance with the plain mandate of the Fourteenth Amendment, Governor Hughes, not Mr. Wilson, would give the Republicans a working majority of forty to fifty in the next House of Representatives, and would otherwise readjust matters to the good of the country.

While Attorney-General Gregory is looking for a case of election fraud he might with profit examine into the violation of the Constitution in the South.

GEORGE B. LOCKWOOD.

Muncie, Ind., November 24.

"THOU LONELY FRANCIA"

Is Paraguay a Monument to Its Dictator's Good Qualities?

To the Editor of THE SUN.—Sir: Having read with a great deal of interest your editorial article on the late Napoleon Bonaparte, I am constrained to write a test against your effort to throw El Supremo back into the mud from which Mr. Edward Lucas White has dragged him. Why is it that when one generation has plastered a man with mud until he has a satisfactory "come-mad" devil, the next generation should strenuously protest if he once tries to show that inside the historic fief there is a real man?

In his great novel—for I trust you will admit the novel is great, even if you protest the greatness of Francia—Mr. White does not paint the dictator as a misunderstood angel; he paints him as a great man, a merciless despot maybe, but a great man. Francia ruled for years and finally welded into a nation that still exists as unstable a mixture of healthy barbarism and decadent exotic culture as ever found on earth. He was an ending of an epoch, not to be accomplished with gloved hands, and, as it nearly always happens in such cases, those that were pinched were the ones that were capable of blackening the pincher's name in print. I wonder just what was the man to man reason for his "banishment" to the "island of St. Helena" by the victors? Was it because he was a great man, a merciless despot maybe, but a great man. Francia ruled for years and finally welded into a nation that still exists as unstable a mixture of healthy barbarism and decadent exotic culture as ever found on earth. 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